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UNITED STATES DISTRICT COURT CLERK'S OFFICE  
DISTRICT OF MASSACHUSETTS

MAY 24 2005 P #46

EBEN ALEXANDER, III, M.D.	)	J. S. DISTRICT COURT DISTRICT OF MASS.
	)	
Plaintiff,	)	Case No. 04-10738-MLW
	)	
v.	)	
	)	
BRIGHAM AND WOMEN'S PHYSICIANS	)	
ORGANIZATION, INC., successor to	)	
Brigham Surgical Group Foundation, Inc.,	)	
BOSTON NEUROSURGICAL FOUNDATION	)	
INC., BRIGHAM SURGICAL GROUP	)	
FOUNDATION, INC. DEFERRED	)	
COMPENSATION PLAN, BRIGHAM	)	
SURGICAL GROUP FOUNDATION, INC.	)	
FACULTY RETIREMENT BENEFIT	)	
PLAN, COMMITTEE ON COMPENSATION	)	
OF THE BRIGHAM SURGICAL GROUP	)	
FOUNDATION, INC., and	)	
PETER BLACK, M.D.	)	
	)	
Defendants.	)	
	)	

**JOINT MOTION TO FILE REPLY AND SURREPLY BRIEFS  
TO CROSS-MOTIONS FOR SUMMARY JUDGMENT**

The parties hereby respectfully request that the Court adopt the following schedule for submission of a reply brief by plaintiff and a surreply brief by defendants in connection with the parties' cross-motions for summary judgment:

Deadline for plaintiff to file reply brief                          June 9, 2005

Deadline for defendants to file surreply brief                          June 29, 2005

In support of this motion, the parties state that plaintiff filed his motion for summary judgment on April 8, 2005 and defendants filed a cross-motion for summary judgment on May 16, 2005 on

the issue of whether two deferred compensation plans are valid "top hat" plans under ERISA. The parties believe that an additional round of short briefs will assist the Court's determination of this issue. In its reply brief, plaintiff will address the arguments raised in defendants' cross-motion for summary judgment and, in their surreply brief, defendants will address the arguments made in plaintiff's reply brief.

WHEREFORE, for the foregoing reasons, the parties respectfully request that the Court adopt the schedule set forth above and schedule oral argument for a date after submission of defendants' surreply brief.

Respectfully submitted,

Plaintiff,

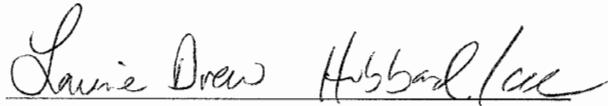
By his attorneys,

  
\_\_\_\_\_  
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Dated: May 24, 2005  
Firmwide:80049152.1

Defendants,

By their attorneys,

  
\_\_\_\_\_  
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David C. Casey (BBO No. 077260)  
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